

COUNCIL MINUTES

REGULAR MEETING

January 4, 2011

A Regular Meeting of the City Council of the City of Jacksonville was held Tuesday, January 4, 2011 beginning at 7:00 PM in the Council Chambers of City Hall. Present were: Mayor Sammy Phillips, presiding; Mayor Pro-Tem Lazzara and Council Members: Jerry Bittner, Fannie K. Coleman, Randy Thomas, and Bob Warden. Councilman Jerome Willingham was unable to attend. Also present were: Richard Woodruff, City Manager; Ronald Massey, Assistant City Manager, Glenn Hargett, Communications and Community Affairs Director; Mike Yaniero, Police Chief; Rick McIntyre, Fire Chief; Tim Chesnutt, Recreation and Parks Director; Grant Sparks, Public Services Director; Reggie Goodson, Planning and Development Services Director; Carmen Miracle, City Clerk; and John Carter, City Attorney. *An audio recording of the Council Meeting is presently available for review in the City Clerk's Office.

CALL TO ORDER

Mayor Sammy Phillips called the meeting to order at 7:00 PM.

PLEDGE OF ALLEGIANCE

Mayor Phillips recognized Boy Scout Troop 597 from Northwoods and Scout Master Carl Earlandson who were in attendance to work on their Citizenship in the Community badge. The Scouts led the Pledge of Allegiance.

INVOCATION

Mr. John Carter pronounced the invocation.

ADOPTION OF AGENDA AND CONSENT ITEMS

A motion was made by Mayor Pro-Tem Lazzara, seconded by Councilman Thomas, and unanimously approved to adopt the agenda as presented.

ADOPTION OF MINUTES

A motion was made by Councilman Thomas, seconded by Council Member Coleman, and unanimously adopted to approve the minutes of the Regular Workshop held November 30, 2010 as presented, a Special Workshop Meeting held December 7, 2010 as presented and the minutes of the Regular Meeting held December 7, 2010 as presented.

PRESENTATIONS

REPORT TO COUNCIL – JACKSONVILLE BEAUTIFICATION AND APPEARANCE COMMISSION

Mr. Alfred Keyes, Chairperson of the Jacksonville Beautification and Appearance Commission, provided a brief report on the annual activities, accomplishments and goals of the Commission. Councilman Robert Warden is the Council Liaison to the Commission.

Mayor Pro-Tem Lazzara thanked the Commission for all that they've done and asked who was responsible for the maintenance of the Bradford Pear trees along Lejeune Blvd. Mr. Keyes stated that the City has taken on the responsibility of maintaining those trees.

Mr. Woodruff thanked the Commission for the breakfast they sponsor for the Parks and Recreation and Sanitation staffs by donating their own time and money. He also thanked them for their enthusiasm and commitment towards Clean and Green Jacksonville.

Mayor Phillips thanked the Commission for the excellent City Christmas tree lighting ceremony.

PUBLIC HEARINGS

ZONING TEXT AMENDMENT – FLIGHT PATH OVERLAY DISTRICT

Ms. Abigail Barman, Planner, stated that to ensure compatibility between future development and air operations associated with Marine Corps Base Camp Lejeune and Marine Corps Air Station New River, the Base had requested that the City of Jacksonville adopt a Flight Path Overlay District (FPOD). If approved, the overlay district would be added to the Zoning Ordinance and would identify specific restrictions on heights, uses and certain activities within this district. The FPOD was necessary to ensure safe aircraft operations while protecting the public's health, safety and welfare along these routes. If adopted, a subsequent map amendment (rezoning) would be brought forward for consideration and approval. Enforcement of this FPOD would not occur until an actual overlay district map amendment was adopted at subsequent meetings/hearings.

Ms. Barman stated that there was one typo correction to the Ordinance. On page 31 of the agenda it stated 50,000 square feet, but should read 500,000 square feet.

Following discussion, Mayor Pro-Tem Lazzara stated that as he understood it, Council was only being asked to adopt the text amendment at this time. Prior to adoption there should be

maps to review, but any project should come before Council as a Special Use Permit. Ms. Barman stated that was correct.

Mr. Woodruff stated that for those watching G10, Public Hearing notices were sent out to about 1,400 property owners in the affected area. He wanted them to be aware that the flight path overlay district had no affect on them if they were an existing single or multi-family unit as they fell under the 100 foot limit and did not create odor, dust or hazardous materials. The property owners were welcome to come to the Public Hearing, but he didn't want them to think something significant was changing.

Mayor Phillips recessed the regular meeting at 7:23 PM in order to convene the Public Hearing.

With no one desiring to speak, Mayor Phillips recessed the Public Hearing at 7:24 PM and reconvened the regular meeting.

A motion was made by Mayor Pro-Tem Lazzara, seconded by Councilman Bittner, and unanimously adopted to approve the Zoning Text Amendment found in Attachment A as presented.

Ordinance 2011-01, Bk.10, Pg. 276

**CONDITIONAL USE PERMIT AND SITE PLAN – KAREN J. ARMSTRONG
DENTAL OFFICE – 3160 HENDERSON DRIVE**

Mayor Phillips recessed the regular meeting at 7:25 PM in order to convene the Public Hearing.

Mayor Phillips swore in Mr. Jeremy Smith, Senior Planner. Mr. Smith stated that John L. Pierce and Associates had submitted an application for a Conditional Use Permit and Site Plan for an existing 2,630 square foot office and proposed expansion. The proposed Site Plan showed a 1,755 square foot expansion that if approved, would make the total building square footage on this site 4,386. The property was zoned Conditional Use-Business-1 (CU-B-1) thus the reason a Conditional Use Permit was required.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 7:26 PM and reconvened the regular meeting.

A motion was made by Councilman Warden, seconded by Councilman Thomas, and unanimously adopted to approve the Conditional/Special Use Permit and Site Plan based on findings of fact A through G being found in the affirmative and the two Site Plan conditions:

- 1) Identify the required 8 foot street lawn on the applicant's property and behind the existing sidewalk;
- 2) Identify how the required landscaping areas would be protected.

CONDITIONAL USE PERMIT AND SITE PLAN – KELLER WILLIAMS REALTY –
3840 HENDERSON DRIVE

Mayor Phillips recessed the regular meeting at 7:27 PM in order to convene the Public Hearing.

Mayor Phillips swore in Mr. Smith. Mr. Smith stated that John L. Pierce and Associates had submitted an application for a Conditional Use Permit and Site Plan for an existing 4,169 square foot office and proposed expansion. The proposed Site Plan showed a 4,674 square foot expansion that if approved, would make the total building square footage on this site 8,843. The property was zoned Conditional Use-Business-1 (CU-B-1) thus the reason a Conditional Use Permit was required.

Mayor Phillips asked about the stormwater retention for this expansion. Mr. Smith stated that it was not required at this site.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 7:29 PM and reconvened the regular meeting.

A motion was made by Mayor Pro-Tem Lazzara and seconded by Councilman Thomas to approve the Conditional/Special Use Permit and Site Plan based on findings of fact A through G being found in the affirmative and the one Site Plan condition:

- 1) Add accessible way to the public right of way from the existing handicap space.

Mr. Woodruff stated that Council was going to be asked in a workshop session to consider whether they wanted to utilize this process or consider an alternative process because this process resulted in a substantial cost and delay to the owners making the expansions. They were existing businesses that were good neighbors and the process delayed construction more than 90 days. Even though it would be included in the UDO, it may be some time before the UDO was ready. Councilman Warden asked if this would be compatible to what was discussed in the UDO so far and Mr. Woodruff indicated that it was.

A vote was taken on the motion and was unanimously approved.

SPECIAL USE PERMIT, SITE PLAN AND SEWER ALLOCATION REQUEST –
MAINSTAY SUITES (HOTEL) AND RESTAURANT – 2201 N. MARINE BLVD

Mayor Phillips recessed the regular meeting at 7:31 PM in order to convene the Public Hearing.

Mayor Phillips swore in Mr. Smith. Mr. Smith stated that Wilson and Lysiak, Inc., had submitted a Special Use Permit and Site Plan application for a proposed hotel and restaurant. If approved, a 50,560 square foot, 97 room hotel and 5,089 square foot restaurant would be permitted on 3.21 acres at 2201 N. Marine Blvd. The property was zoned Business-1 (B-1) and within this district hotels and restaurants were a permitted use; however, the combined square footage was over 25,000; therefore, a Special Use Permit was required.

Councilman Warden questioned stormwater on the site. Mr. Smith stated that a stormwater pond was required, but it was an offsite pond. There was an on-site sand filtering system underground. Mr. Woodruff stated he would like Council to add one additional condition: the standards for stormwater ponds that were not yet adopted would apply to this property if any additional on-site stormwater ponds were to be built.

Mayor Pro-Tem Lazzara questioned the buffering of the site in the back next to the Carebridge Assisted Living. Discussion followed.

Mayor Phillips swore in Ryan King, Planning Administrator. Mr. King pointed out that there were two fences shown on the plan. The legend didn't indicate an opaque fence, but if it was Council's desire to have a 6 foot opaque fence, it would be required. The two fences on the site plan were questioned and Mr. King felt that one fence may be the adjoiner's fence. Council indicated that only one fence was needed, but it had to be an opaque fence.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 7:42 PM and reconvened the regular meeting.

A motion was made by Mayor Pro-Tem Lazzara, seconded by Councilman Thomas, and unanimously adopted to approve the Special Use Permit and Site Plan with two Special Use Permit conditions, two Site Plan conditions, and the two additional Site Plan conditions imposed by Council, based on findings of fact A through G being found in the affirmative and to approve the sewer allocation of 16,975 gpd:

Special Use Permit Conditions

- 1) Construct and execute all recommended improvements as noted in the final TIA;
- 2) Submit a recombination plat for review and approval.

Site Plan Conditions

- 1) Correct minor issues with Site Plan and site data block related to accessible parking, sidewalk and parking;
- 2) Show all improvements recommended by final TIA;

Council Imposed Additional Site Plan Conditions

- 3) Stormwater pond standards that were currently being reviewed by Council would apply to this property if any stormwater ponds were built;
- 4) An opaque fence must be located at the rear of the site if one was not already installed.

PUBLIC COMMENT

There was no one present desiring to speak at this public comment section.

NEW BUSINESSCONSENT ITEMS

VOLUNTARY ANNEXATION PETITION – DELTA INVESTORS – WESTERN
BLVD. – 10.88-ACRE TRACT

At the December 7, 2010 meeting, Council adopted a Resolution directing staff to investigate the sufficiency of a voluntary annexation petition received from Parker and Associates on behalf of S. Douglas Padgett, Jr. This was a 10.88-acre tract that was contiguous to the current City limit boundaries. The site was located along Western Blvd. across from Commons Drive North. This annexation included the right-of-way portion of property dedicated to NCDOT for future Western Parkway. A letter submitted with the petition indicated possible future development of the site as a commercial subdivision, which included a 110 room hotel and 3 possible restaurants. However, no firm development plans have been submitted to the City at this time. The City Clerk had conducted the required investigation and found as a fact that said petition was signed by all owners of real property lying in the area. As provided in North Carolina General Statute 160A-31, a Resolution had been prepared scheduling a Public Hearing on this annexation for the January 18, 2011 Meeting.

Council adopted the Resolution as presented.

Resolution 2011-01, Bk. 6, Pg. 374

REQUEST FOR EXTENSION OF SEWER ALLOCATION – THE LEGACY AT
CAROLINA FOREST

Blue Ridge Companies submitted a request for an additional twelve month extension for 68,400 gallons per day of sewer allocation granted to The Legacy at Carolina Forest. According to the applicant, the company had experienced several challenges in securing capital to proceed

with the project as a result of the recent economic downturn. Staff reviewed the extension request and determined that it complied with the adopted Sewer Allocation Policy.

Council approved the twelve month extension of sewer allocation for The Legacy at Carolina Forest.

REQUEST FOR SEWER FLOW ALLOCATION – GLENSTAL APARTMENTS

East Carolina Community Development, Inc. submitted a request for sewer allocation to serve a 56-unit apartment complex approved for the corner of Western Boulevard and Arlington Meadows Drive. This request was for sewer allocation totaling 13,440 gpd to serve this project. Staff reviewed this request and determined that it complied with the adopted Sewer Flow Allocation Policy.

Council approved the Sewer Flow Allocation request.

DEPARTMENT OF TRANSPORTATION MOWING AGREEMENT

The Recreation and Parks Department had been mowing Western Boulevard Extension from Highway 17 to Gateway North since July 2010. Staff requested Council to approve the Mowing Agreement with North Carolina Department of Transportation (NCDOT) which would allow the City to receive reimbursement for the mowing of Western Boulevard Extension and to amend the Recreation and Parks Department budget to appropriate the funds received from NCDOT.

Council authorized the City Manager or his representative to sign the NCDOT Mowing Agreement and approved the budget amendment.

Ordinance 2011-02, Bk. 10, Pg. 282

TAX RELEASES, REFUNDS AND WRITE-OFFS

The County/City Tax Collector and City's Finance Director recommended releases, refunds, and write-offs of property taxes respectively \$71,145.41, \$2,416.37 and \$94.65 (\$73,656.43). The detail list of these tax releases and refunds was available in the Finance Office for review.

Council approved the tax releases, refunds and write-offs.

PURCHASE OF STREET SWEEPER

The City currently had three street sweepers with a goal of obtaining a fourth sweeper. Two of the three were accumulating years of service (nine and eight years old respectively). Both had experienced major maintenance problems and were constantly in and out of the City's

maintenance shop. The Streets Division was seeking the purchase of a new Regenerative Air Street Sweeper which would increase the total in the fleet to four. Street sweepers were critical pieces of equipment which were necessary to accomplish the Street Division's mission. With the high demand on them and the need for maximum availability, it was necessary to increase the number in the fleet. The street sweepers supported the City's Goal #6 of providing improved service to our residents and at the same time improving the water quality of stormwater leaving City streets by reducing the sedimentation that enters the waterways.

Council approved the immediate purchase of a new sweeper and the proposed budget amendment.

Ordinance 2011-03, Bk. 10, Pg. 283

JACKSONVILLE-ONslow VOLUNTEER CENTER TRANSFER

Due to the retirement of Sandra Wyrick as the Executive Director of Onslow Community Outreach (formerly Onslow Community Ministries), the organization had elected to discontinue the operation of the Jacksonville-Onslow Volunteer Center, and had initiated talks with United Way of Onslow County to continue the work of the Center. The City had created the Center in 1999 and asked the County to join in the project. Recently, Council had authorized \$5,000 for Onslow Community Outreach as support for FY11 to operate this project. Staff had confidence that the United Way of Onslow County would operate the Center effectively. The City had been made aware of plans to expand the Volunteer Center offerings and to engage in a marketing campaign. Authorization was sought to transfer the funds approved for Onslow Community Outreach for the operation of the Jacksonville-Onslow Volunteer Center to United Way of Onslow County.

Council approved the United Way as the recipient of funds to support the Jacksonville-Onslow Volunteer Center.

RECREATION AND PARKS – FEE SCHEDULE AMENDMENT

On June 22, 2010, City Council approved the FY11 budget which included a fee schedule listing the Recreation and Park's Department's proposed fees for its programs and facilities. Page three (3) of the Recreation and Parks Department's fee schedule was inadvertently not included in the proposed schedule adopted by Council. As such, staff presented page three (3) of the fee schedule for adoption and inclusion with the adopted FY11 fee schedule.

Council approved the Fee Schedule Amendment.

NON-CONSENT ITEMS

APPOINTMENT OF CITY REPRESENTATIVE TO THE ONSLOW WATER AND SEWER AUTHORITY

There were two positions reserved on the Onslow Water and Sewer Authority (ONWASA) Board of Directors for members of the Jacksonville City Council. The ONWASA bylaws provided for appointments for three year staggered terms and any member may be re-appointed for subsequent terms. On October 21, 2008, Council adopted Ordinance 2008-45 which governed the City's ONWASA appointment process. Ordinance 2008-45 provided for Council appointments to the ONWASA Board of Directors to be re-appointed annually by the City Council at the second regular Council meeting in July. At such time, an appointee may be re-appointed or replaced by Council. On July 20, 2010, Councilman Jerome Willingham was re-appointed by Council to an existing three year term expiring on July 31, 2012. Councilman Willingham announced his resignation from his appointed position on December 16, 2010. On December 17, 2010, Mayor Phillips advised Council of the resignation and asked that any member who was interested in this appointment please contact the City Clerk's Office. Mayor Pro-Tem Lazzara responded to express his interest in the appointment.

Councilman Bittner nominated Mayor Pro-Tem Lazzara for appointment to an existing three year term expiring July 31, 2012.

A motion was made by Councilman Thomas, seconded by Council Member Coleman, and unanimously adopted to close nominations and to appoint Mayor Pro-Tem Lazzara by acclamation.

PUBLIC COMMENT

There was no one present desiring to speak during this public comment section.

REPORTS

ETJ EXPANSION

Councilman Thomas reported that he had attended an Onslow County Commissioner Workshop about the City extending the ETJ to a section of Piney Green Road, but did not believe that this was still a concern.

CLARIFICATION ON MOWING AGREEMENT

Councilman Bittner requested clarification on the date in Item #8 – Department of Transportation Mowing Agreement. He asked if the date of December 31, 2010 was a typo or

were they just catching up on this agreement. Mr. Woodruff stated that this was an agreement that was being caught up.

AREA ROADWAY IMPROVEMENT PROJECTS MAPS

Mayor Pro-Tem Lazzara handed out maps of the Area Roadway Improvement Projects that were coming up in the next couple of years. He briefly reviewed them for the public viewing the meeting on G10.

GOAL SETTING SESSION

Mayor Phillips stated that he would like a goal setting session scheduled. Mr. Woodruff stated that he would schedule the session for the end of January or early February.

ECONOMIC DEVELOPMENT COMMISSION (EDC) WELCOME BREAKFAST

Mr. Woodruff reported that Council was invited to the EDC Welcome Breakfast on Thursday, January 6, 2011 at 7:30 AM at the Chamber of Commerce. House Speaker Thom Tillis would be the guest speaker at this meeting.

SWEARING IN CEREMONY

Mr. Woodruff reported that Council and the public were invited to attend the swearing in ceremony for Representative Phil Sheppard on Thursday, January 6, 2011 at 6:00 PM at the Onslow County Courthouse. The Oath would be given by House Speaker Thom Tillis.

CITY HALL CLOSING

Mr. Woodruff reported that City offices would be closed on Monday, January 17, 2011 in observance of Martin Luther King's birthday.

JOINT LEGISLATIVE SESSION

Mr. Woodruff reported that a joint meeting was scheduled with the Legislative Delegation, Onslow County Board of Commissioners and the Jacksonville City Council on Tuesday, January 18, 2011 at 4:00 PM in Council Chambers. He also reported that at this time representatives from N.C. State would be present. N.C. State won a national competition for Community Involvement that was based on the Jacksonville Sturgeon City model. As a result of the win, they would present a check of approximately \$25,000 to Sturgeon City representatives.

FIVE YEAR CAPITAL IMPROVEMENT PLAN (CIP)

Staff was in the process of finishing the 5 year CIP. The draft should be delivered to Council by the end of January for their review. Workshops to modify the CIP would be set up as Council moved through the budget process.

MR. JOHNNY STILTNER AND THE STREETS DIVISION

Mr. Woodruff reported that Mr. Stiltner informed him that with the approval of the purchase of the street sweeper during this meeting, the City would be able to begin to sweep all major streets that were currently under NCDOT. Over the next 30 days, the City would have cleaned every major street that NDOT had normally been responsible for, but due to limited funds, had been unable to clean to the City's current standards.

CLARIFICATION

Mr. Carter reported that Mr. King had investigated the fencing at the back of the proposed hotel site that was discussed earlier and the second fence on the site plan was an existing 6 foot fence.

WITHDRAWAL OF SPECIAL USE PERMIT REQUEST

Mr. Carter reported that the previous Special Use Permit request for a telecommunications tower on Adobe Lane, which had been postponed for discussions between the land owners and the base and was originally rescheduled for tonight's Council meeting, had been withdrawn by the developer.

ADJOURNMENT

A motion was made by Councilman Thomas, seconded by Mayor Pro-Tem Lazzara, and unanimously adopted to adjourn the meeting at 7:54 PM.

Adopted by the Jacksonville City Council in regular session this 18th day of January, 2011.

Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk